

Assisted Living and Continuing Care Retirement Community

State Regulatory Handbook

2014

American
Seniors
Housing
Association

LeadingAge™
formerly aahsa

CCRC LEGEND

In general: This chart summarizes statutory language and may not reflect regulatory or other interpretation. Rules are generally much more complex than chart indicates. "Y" indicates there is provision on point; a blank space indicates there is no provision on point.

1. Definition:

- a. & b. Shows what duration of contract is required to be subject to licensure. If a statute covers contracts for life or greater than one year, chart shows only "1 year" filled. If both are filled, may be multiple categories of licensure.
- c. Statute applies only where there is some form of entrance fee.
- d. Priority admission to services, even if not prepaid, triggers licensure.
- e. & f. Chart refers to the kind of activity that is considered to trigger licensure. Health-related services and personal care may be similar activities in some states.

2. Application:

- a. Disclosure to residents or state of various information about the provider and/or project plans.
- b. Financial statements or budgets required to be submitted to the state.
- c., d., e. These studies are required to be submitted to the state; may contain overlapping information depending on state definitions.
- f. Accreditation accepted in lieu of state review; may be subject to agency discretion.

3. Escrows:

- a. Some escrowing of entrance fees required, at least for initial facility sell-out.
- b. Factors considered in releasing money from escrow.
 - 1. Percentage of total entrance fee required to be on deposit from a specified percentage of total units in the project.
 - 2. Total funds, such as construction and start-up costs, required for escrow release.
 - 3. Construction standard required for escrow release.
 - 4. Financing standard required for escrow release.

4. Additional Presales: (See 3.b.1. for presales required for escrow release)

- a. Presales required to begin development or license application; expressed as a percentage of entrance fees from a percentage of units.
- b. Presales required to obtain final certification; expressed as a percentage of entrance fees from a percentage of units.

5. Reserves:

- a. Required reserve of principal and interest payments or other real property expenses for facility; expressed in months of payments.
- b. Reserve calculated as percentage of deposits received from residents.
- c. Reserves measured by costs of operation.
- d. Reserves measured by entrance fee refund obligation.

6. Bonds:

Surety bond for contract obligations required automatically or when deemed necessary by state.

7. Disclosure to Residents:

- a. When operator's financial report must be given to residents.
- b. License statute provides specifically for public inspection of licensee's filings with state; most other states may permit this by reason of other general statutes.

8. Contract Terms:

- a. Contract form must be submitted to state.
- b. Statute sets forth detailed requirements for the contents of contracts; for example, services offered, fees, cancellation, terminations for cause, consequences of death, and so on.
- c. Statute provides for period in which resident can rescind contract without penalty, usually measured after contract execution or commencement of occupancy.
- d. General statutory treatment of refunds to residents in the event of voluntary cancellation, termination for cause, or death, often with differing amounts due depending on circumstances.
- e. Statute sets forth a refund schedule based on resident length of stay (usually after rescission period).
- f. Full refund required if resident dies before taking occupancy, sometimes less actual cost of care, or a fixed or percentage charge.

9. Advertising:

- a. Advertising must be submitted to state and approved, or filed only. Some states have express prohibitions against false advertising; these are not noted in the chart.
- b. State requires that if a sponsoring organization, or other organization in addition to the licensee, is mentioned in the contract or in advertising, the other organization must accept or clarify its financial responsibility for contract obligations.

10. Resident Right to Organize:

- a. Provision for resident right to organize in an association.
- b. Statute sets forth minimum meet and confer requirements between management and residents, establishes resident seat on home's board of directors, or requires establishment of a grievance procedure.

11. Liens:

- a. A statutory lien is or may be established against facility assets to secure obligations to residents.
- b. The statutory lien is recognized to be subordinate to prior recorded liens or to secured lenders (e.g., holders of mortgages).

12. Agency:

State agency in charge of continuing care certification or enforcement.

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The following categories are defined on pages 24 and 25.

	COLORADO	CONNECTICUT	DELAWARE
	C.R.S. §§12-13-101 <i>et seq.</i> Colo. Code Regs. §§4.1 to 14.1 (Div. Financial Services)	Title 17b, Ch. 319hh §§17b-520 <i>et seq.</i> Conn. Agencies Regs. §§17b-533-1 <i>et seq.</i>	Title 18, Ch. 46 §§4601 <i>et seq.</i>
1. DEFINITION			
a. For life	Y		
b. 1 year		Y; greater than 1 year	Y; greater than 1 year
c. Entrance fee required	Y	\$20,000+	Y
d. Priority admission		Y	
e. Health/health-related services	Y	Y	Y
f. Personal care		Y	
2. APPLICATION			
a. Disclosure statement	Y	Y	Y
b. Financials	Y	Y	Y
c. Financial feasibility study		Y	
d. Actuarial study		Y	
e. Market study			
f. Accreditation in lieu of regulation			
3. ESCROW OF FEES			
a. Required	Y	Y	
b. Basis for release			
i. Presales			
ii. Funds	90% of costs	75% of costs	
iii. Construction	Substantial completion	Max. Price Contrac	
iv. Financing	Commitment	Commitment	
4. ADDITIONAL PRESALES			
a. To begin development		< or 5% or \$10,000 + 50% sales	
b. For final certification			
5. RESERVES			
a. P & I	12 to 18 months	1 yr	
b. Percent of deposits			
c. Operating costs	20% of annual costs	1 month	
d. For refunds			
6. SURETY BONDS		Construction only	
7. DISCLOSURE TO RESIDENTS			
a. Financial report	At signing and upon request	Before signing and before occupancy; upon request thereafter	Upon request
b. Public inspection of filings		Y	Y
8. CONTRACT TERMS			
a. Submit form		Y	Y
b. Detailed contents		Y	
c. Rescission period		30 days	
d. Refunds in general	Y	Y	
e. Required amortization of refund	Y		
f. Full refund if res. dies before occupancy		Less costs and a reasonable service charge	
9. ADVERTISING			
a. Prior approval			
b. Sponsor liability	Y		
10. RESIDENT'S RIGHT TO ORGANIZE			
a. Association			
b. Meetings with management			
11. LIENS			
a. For residents	Y		
b. Subordinated to priors	Y		
12. AGENCY	Colorado Division of Financial Services	Social Services	Secretary of State